

given in depth (inside dimension) by width by length (outside dimension). Individual consumer packages means packages holding 15 pounds or less net weight of nectarines. “Tree ripe” means the same as “tree ripened” and fruit shipped and marked as “tree ripe”, “tree ripened”, or any similar terms using the words “tree” and “ripe”, must meet minimum California Well Matured standards.

(c) Each container of peaches in plastic, 12×19¾ inch reusable and recyclable containers shall meet and bear, on the container lid or on the outside end, all applicable marking requirements under the order.

(d) During the period April 1 through November 23, 1996, each container or package when packed with peaches meeting CA Utility requirements, shall bear the words “CA Utility”, along with all other required container markings, in letters of ¾ inch minimum height on the visible display panel. Consumer bags or packages must also be clearly marked on the bag or package as “CA Utility” along with other required markings.

[50 FR 39074, Sept. 27, 1985, as amended at 54 FR 27861, July 3, 1989; 55 FR 24222, June 15, 1990; 56 FR 40225, Aug. 14, 1991; 57 FR 20739, May 15, 1992; 57 FR 42682, Sept. 16, 1992; 59 FR 15840, Apr. 5, 1994; 59 FR 31120, June 17, 1994; 60 FR 14896, Mar. 21, 1995; 61 FR 13392, Mar. 27, 1996; 61 FR 19164, May 1, 1996; 61 FR 31391, June 20, 1996]

Subpart—Grade and Size Regulation

§ 917.459 California Peach Grade and Size Regulation.

(a) During the period beginning April 1 and ending November 23, no handler shall ship:

(1) Any lot or package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade: Provided, that an additional 25 percent tolerance shall be permitted for fruit with open sutures which are damaged, but not seriously damaged. Provided, That during the period April 1 through November 23, 1996, any handler may handle peaches if such peaches meet “CA Utility” quality requirements. The term “CA Utility” means that not more than 30 per-

cent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade and that such peaches are mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split pits which cause an unhealed crack or one or more healed cracks which, either singly or in the aggregate, are more than ½ inch in length; and mold, brown rot, and decay; and

(ii) Free from serious damage due to cuts, skin breaks, growth cracks, bruises, scab, rust, blight, disease, hail or other causes. Damage to any peach is serious when it causes a waste of 10 percent or more, by volume, of the individual peach.

(iii) Tolerances. Not more than 10 percent, by count, of the peaches in any container may be below the requirements prescribed by this subparagraph. Not more than one-half of this tolerance shall be allowed for any one cause. Individual containers in any lot may contain not more than 1 ½ times the tolerances specified if the percentage of defects of the entire lot averages within the tolerances.

(2) [Reserved]

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than that specified in paragraph (a)(2)(i) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains no more than 96 peaches.

(3) Any package or container of Goldcrest or Topcrest variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in paragraph (a)(3)(i) of this section are of a size that a 16-pound sample representative of the peaches in the package or container, contains not more than 92 peaches.

(4)(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of a standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(4)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 83 peaches.

(5) Any package or container of Babcock, Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, Golden Crest, Honey Red, June Lady, June Sun, Kern Sun, Kingscrest, Kings Red, May Crest, May Sun, Merrill Gemfree, Queencrest, Ray Crest, Redtop, Regina, Rich May, Snow Brite, Snow Flame, Springcrest, Spring Lady, or Sugar May variety of peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(5)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 76 peaches.

(6) Any package or container of Amber Crest, August Sun, Autumn Crest, Autumn Gem, Autumn Lady, Autumn Rose, Belmont, Berenda Sun, Blum's Beauty, Cal Red, Carnival, Cassie, Champagne, Diamond Princess, Early Elegant Lady, Early O'Henry, Elegant Lady, Fairmont, Fairtime, Fancy Lady, Fay Elberta, Fire Red, Flamecrest, John Henry, July Sun,

June Pride, Kaweah, Kings Lady, Lacey, Late Ito Red, Mary Ann, O'Henry, Prima Gattie, Prima Lady, Red Dancer, Rich Lady, Royal Lady, Ryan's Sun, September Snow, September Sun, Sierra Lady, Snow Ball, Snow Giant, Snow King, Sparkle, Sprague Last Chance, Sugar Giant, Sugar Lady, Summer Lady, Summer Sweet, Suncrest, Tra Zee, White Lady, or Zee Lady variety of peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack in accordance with the requirements of standard pack, not more than 72 peaches in the lug box or if the peaches are "well matured" not more than 80 peaches in the lug box.

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the lug box.

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches or if the peaches are "well matured" not more than 73 peaches.

(b) During the period April 1 through June 30 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (b)(1) and (b)(2) of this section are of a size that a 16-pound sample, representative of the peaches in

the package or container, contains not more than 96 peaches.

(c) During the period July 1 through October 31 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (c)(1) and (c)(2) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches.

(d) The following procedure shall be used in determining whether peaches meet the minimum size requirements specified for each size category in this section applying a 16-pound sample. A sample consisting of one-half of the number of fruit specified for a 16-pound sample for a particular size category shall be used, provided such sample weighs at least eight pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit shall be used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a 16-pound sample shall be used to determine if the fruit meets the minimum size requirements.

(e) As used herein, "U.S. No. 1", "mature", and "standard pack", mean the same as defined in the United States Standards for Grades of Peaches (7 CFR 51.1210 through 51.1223); and "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in section 1380.19 (18) of the "Regulations of the California Department of Food and Agriculture". "Well

matured" means a condition distinctly more advanced than "mature".

[59 FR 15841, Apr. 5, 1994, as amended at 60 FR 14896, Mar. 21, 1995; 60 FR 30997, June 12, 1995; 61 FR 13392, Mar. 27, 1996; 61 FR 19164, May 1, 1996; 61 FR 31391, June 20, 1996]

§ 917.461 Pear Regulation 12.

(a) No handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1: *Provided*, That for the 1992 crop year, no handler shall ship organic pears of these varieties unless they grade at least U.S. Combination with not less than 50 percent, by count, grading at least U.S. No. 1 and the remainder grading at least U.S. No. 2, except that russetting shall not be scored as a defect for such organic pears. Handlers who intend to ship organic pears in accordance with this paragraph shall provide, upon request of the committee, with the approval of the Secretary, information to indicate that the pears were grown in accordance with the provisions of paragraph (b)(5) of this section.

(2) Any box or container, including consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

(3) Any box or container, other than consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, other than consumer packages in master containers and consumer packages not in master containers, unless such box or container conforms to the requirement of standard pack, except that such pears may be fairly tightly packed;